

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application:

Appl. No.	:	10/675,368	Confirmation No.:5982
Applicant	:	Paul Mayer	
Filed	:	September 30, 2003	
Art Unit	:	2621	
Examiner	:	Nathan Erb	
Attorney Docket No.	:	F-322	Date: February 20, 2008

Mail Stop Appeal Brief- Patents
Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellants respectfully submit the following Brief in the appeal of the subject application. This Brief is in furtherance of the Notice of Appeal filed in this case on December 20, 2007, following a Final Office Action mailed September 20, 2007, rejecting claims 1-6.

The Commissioner is hereby authorized to charge any additional fees that may be required for this appeal or to make this brief timely or credit any overpayment to Deposit Account No. 16-1885.

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I. REAL PARTY IN INTEREST

The real party in interest in this appeal is Pitney Bowes Inc., a Delaware corporation, the assignee of this application.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to Appellants, their legal representative, or the assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

- (1) Claims 1 and 3-5 are the subject of this Appeal. Claims 1, 3 and 4 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,334,119 to Gagliardi ("Gagliardi") in view of U.S. Publication No. 2002/008301 Carroll ("Carroll"). Claim 5 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Gagliardi in view of Carroll in further view of U.S. Publication No. 2003/0101446 to McManus ("McManus").
- (2) Appellants hereby appeal the rejection of claims 1 and 3-5.

IV. STATUS OF THE AMENDMENTS

Claims 1-6 were filed with the application on September 30, 2003. In an Amendment dated June 29, 2007, claims 1, 5 and 6 were amended. In response to the Final Office Action mailed September 20, 2007, an Amendment After Final dated November 19, 2007 amended claim 1 and cancelled claims 2 and 6. In response to an Advisory Action dated December 7, 2007 Appellants filed an Notice of Appeal on December 20, 2007.

Therefore, current claims 1 and 3-5 are set forth in Appendix A to this Brief.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1

The invention is used in an inserter system that includes a plurality of modules for accumulating and assembling sheets into mail pieces (Fig.1, page 5, line 20, to page 7, line 12). A controller computer is coupled to the plurality of modules and controls assembly of mail pieces in accordance with predetermined instructions (Id., Ref. No. 310). The controller computer receives status data from the plurality of modules (Id.). The controller computer includes one or more software-based data processing objects configured for processing the status data to determine inserter status (Fig.2, page 8, lines 3- 11). The data processing objects are configured for passing processed status data directly to a network protocol object for transmittal (Page 8, lines 12-18). The controller computer further comprises a network port for directly transmitting status data processed by the network protocol object to an external network (Page 8, line 14, to page 9, line 4). The network port and the network protocol object are further configured for accepting incoming requests from the external network (Id.). The controller computer is configured for transmitting inserter status data in real-time, without need for withdrawal of information from a database or repository in the controller computer (Page 8, line 19, to page 9, line 4). The network protocol object is an HTTP web server object and the network port is a TCP/IP port (Page 8, lines 14-17). The controller computer is also configured so that selection of data for transmission occurs in real-time, without need for withdrawal of information from a database or repository in the controller computer (Page 8, lines 19, to page 9, line 4).

This summary is not intended to supplant the description of the claimed subject matter as provided in claims 1 and 3-5 as recited in Appendix A and understood in light of the entire specification.

VI. GROUNDΣ OF REJECTION TO BE REVIEWED ON APPEAL

Whether or not claims 1 and 3-5 are patentable under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,334,119 to Gagliardi ("Gagliardi") in view of US Publication No. 2002/008301 Carroll ("Carroll") and also, whether claim 5 is patentable under 35 U.S.C. § 103(a) as being unpatentable over Gagliardi in view of Carroll in further view of U.S. Publication No. 2003/0101446 to McManus ("McManus").

VII. ARGUMENT

Independent Claim 1 is Patentable Over the Asserted References

The primary reference, Gagliardi, fails to disclose certain features of independent claim 1, and the secondary reference (Carroll) fails to correct these deficiencies. In particular, Gagliardi fails to disclose the claimed features whereby the networking features are directly embedded in the inserter controller computer. Claim 1 includes the following recitation, which is not disclosed in Gagliardi or the other asserted references:

"the controller computer further comprising a network port for directly transmitting status data processed by the network protocol object to an external network, and the network port and the network protocol object further configured for accepting incoming requests from the external network, the controller computer configured for transmitting inserter status data in real-time, without need for withdrawal of information from a database or repository in the controller computer..."

The Examiner argued that Gagliardi disclosed "networking" by virtue of the fact that Gagliardi shows an inserter computer connected to other computers. However, it is an oversimplification to say that the interconnected computers of Gagliardi satisfy the specific network capabilities embedded in the inserter controller computer, as recited in claim 1.

Gagliardi does not include any networking port or protocol that provides for transmittal of inserter status in real time. The disclosure of Gagliardi specifically teaches away from this arrangement. Gagliardi describes:

"After the inserter system 10 completes its "mail run job", all the **statistical data information (including the aforesaid postal information) relating to that "mail run job" remains stored in memory** in the control system 14 of the inserter 10 (step 306). When a user of the OMS 100 desires to obtain statistical data information from a chosen postal meter on one of the inserter systems 10 coupled to the OMS 100 (FIG. 2), the user instructs the OMS 100 to send a signal to the control system 14 of the inserter system 10, via file server 102, having the chosen postage meter 104 or 106 to transmit that statistical data regarding the chosen postage meter 104 or 106 to the OMS 100 (step 308)."

Col. 8, lines 20-31.

Thus, Gagliardi describes a system where information is stored in memory, and the inserter must wait until an external query to provide the information. Gagliardi discloses a conventional arrangement whereby the file server **102** is located external to the inserter systems **10**, and acts as a communication means from the inserter systems **10** to the operating management system **100**. This type of remote networking arrangement was acknowledged and described in the background of the present application:

"With conventional inserter systems it is sometimes desired to remotely monitor the status and configuration of the inserter equipment. In order to accomplish this, the inserter control system stores status information for various modules in a database. Such database is typically stored on a hard drive on a controller computer. Periodically this database is uploaded to an external network server from the controller computer hard drive. This network server includes the appropriate protocols to allow the database information to be transmitted over a network. For example, an HTTP Internet server may serve a database or repository populated with information from the inserter controller." (Specification, carryover paragraph, pages 3-4).

The long standing need for the improved system recited in Claim 1 was also described in the specification of the present application:

"The present invention fills a long standing need to provide the most current inserter status and configuration information for transmission over a network. The invention eliminates the need for a database or repository for storing inserter status information by incorporating a web server directly into the inserter control equipment. By incorporating the web server directly into the inserter controller, current status information may be efficiently provided on demand, and in real-time."

(Specification, page 4, lines 9-14).

Accordingly, it will be understood that Gagliardi does not teach the recited network features integrated into the inserter controller, and that Gagliardi only describes the conventional system that was to be improved upon by the present invention. The Carroll and McManus references were asserted for other features and fail to correct these identified deficiencies of Gagliardi.

VIII. CONCLUSION

For the reasons advanced above, Appellants respectfully submit that claim 1 and its dependent claims 3-5 are patentable. Reversals of the rejections by the Examiner are respectfully requested.

Respectfully submitted,

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CLAIMS APPENDIX A

1. An inserter system comprising:

 a plurality of modules for accumulating and assembling sheets into mail pieces;
 and

 a controller computer coupled to the plurality of modules and controlling
 assembly of mail pieces in accordance with predetermined instructions, the controller
 computer receiving status data from the plurality of modules; the controller computer
 including one or more software-based data processing objects configured for
 processing the status data to determine inserter status, the data processing objects
 configured for passing processed status data directly to a network protocol object for
 transmittal, the controller computer further comprising a network port for directly
 transmitting status data processed by the network protocol object to an external
 network, and the network port and the network protocol object further configured for
 accepting incoming requests from the external network, the controller computer
 configured for transmitting inserter status data in real-time, without need for withdrawal
 of information from a database or repository in the controller computer;

 wherein the network protocol object is an HTTP web server object and the
 network port is a TCP/IP port; and

 wherein the controller computer is configured so that selection of data for
 transmission occurs in real-time, without need for withdrawal of information from a
 database or repository in the controller computer.

2. (Cancelled)
3. The inserter system of claim 1 wherein the controller computer is a general purpose computer coupled to the plurality of modules.
4. The inserter system of claim 1 wherein the controller computer is an embedded processor fixed within the plurality of modules.
5. The inserter system of claim 1 wherein the data processing objects include a parser configured to select data for transmission responsive to an incoming request from the external network.
6. (Cancelled)

EVIDENCE APPENDIX B

None

RELATED PROCEEDINGS APPENDIX C

None